

ATTACHMENT E
ASSURANCE AGREEMENT

Assurance Agreement

- The purpose of the Assurance Agreement is to have the Marlins' ownership guarantee that they are going to meet all of the payment and performance obligations of Marlins Stadium Developer, LLC in the construction of the baseball stadium.
- While the other Stadium Agreements are between the County, City, and an affiliate of the Marlins (i.e., Marlins Stadium Developer, LLC or Marlins Stadium Operator, LLC), the Assurance Agreement (and the Non-Relocation Agreement) is executed by Florida Marlins, L.P., the direct owners of the Team.
- Execution by the direct owners is important because we know that Marlins Stadium Developer, LLC (the entity building the stadium) is a single purpose entity established by the Team solely for the purpose of constructing the stadium. It does not have any assets other than those assigned to it by the Team.
- In other words, having only a guarantee from Marlins Stadium Developer, LLC, would not adequately protect the County in the event there was a breach by the Stadium Developer in constructing the stadium. Thus, the Assurance Agreement is provided to have a "backstop" for the construction of the stadium by Team ownership in the event of such breach.
- Under this Agreement, the Team is guaranteeing that they will: 1) cause the baseball stadium to be completed in accordance with the Construction Administration Agreement, 2) they will cause the payment of all project costs that are the responsibility of Marlins Stadium Developer, including cost overruns, 3) maintain an initial \$20 million dedicated bank line of credit for potential overruns, and, 4) that they will assume responsibility for all required payment and performance bonds necessary for construction.
- Per the Assurance Agreement, if the Team were to not honor its guarantee, the County has the right to exercise against the Marlins' ownership any legal remedies available to obtain their payment and/or performance obligations in the construction of the baseball stadium.
- Further, under this Agreement, until such time as the Marlins Stadium Developer, LLC secures its funding, the County will have a subordinated lien on the Marlins franchise. In the event that the Team becomes a party to a foreclosure action, as a result of the subordinated lien, the County's interest will be superior to the rights of any unsecured creditors to the Team.

ASSURANCE AGREEMENT

This Assurance Agreement (this "Agreement") is made as of the 15th day of April, 2009, by and among Miami-Dade County, a political subdivision of the State of Florida (the "County"), the City of Miami, a municipal corporation of the State of Florida (the "City"), and Florida Marlins, L.P., a Delaware limited partnership (the "Team").

Recitals

A. Contemporaneously with the execution of this Agreement, the County, the City and Marlins Stadium Developer, LLC, a Delaware limited liability company (the "Stadium Developer"), are entering into a Construction Administration Agreement (the "Construction Agreement") providing for the planning, design and construction of the Baseball Stadium by the Stadium Developer. (Capitalized terms used but not defined in this Agreement have the meanings set forth in the Construction Agreement.)

B. The County and the City have required, as a material inducement and condition precedent to entering into the Construction Agreement, that the Team execute and deliver this Agreement to unconditionally and irrevocably guaranty the Stadium Developer's obligations (whether of payment or performance) under and in accordance with the Construction Agreement.

C. The Team has a financial interest in the Stadium Developer and an interest in the construction of the Baseball Stadium pursuant to the Construction Agreement, and has agreed to execute and deliver this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. **Guaranty.** The Team, as primary obligor and not merely as surety, absolutely, unconditionally and irrevocably guarantees to the County and the City the full and prompt payment and performance of all obligations of the Stadium Developer under the terms and conditions of the Construction Agreement, whether liquidated or unliquidated, fixed or contingent, now existing or hereafter arising, of any kind or nature whatsoever, including, but not limited to, the following:

(a) to cause the Baseball Stadium Project to be completed in accordance with the Construction Agreement;

(b) the payment and discharge of all Stadium Project Costs payable by the Stadium Developer under the Construction Agreement, including (i) the Stadium Developer's obligation to provide the funding required by Section 6.4 of the Construction Agreement and (ii) the Stadium Developer's obligation to pay for any Stadium Cost Overruns (other than any Governmentally Caused Cost Overruns) and Public Infrastructure Cost Overruns (to the extent the Stadium Developer is responsible for such Public Infrastructure Cost Overruns as set forth in Section 6.5 of the Construction Agreement) in accordance with Section 6.5 of the Construction Agreement;

(c) the maintenance of a bank line of credit or other similar financial arrangement that may be used only to fund Stadium Cost Overruns as provided in Section 6.5 of

the Construction Agreement, and the obligations of the Stadium Developer with respect to the payment and performance bonds under the Construction Agreement; and

(d) the indemnity obligations of the Stadium Developer set forth in Article XII of the Construction Agreement.

All amounts due, debts, liabilities, payment obligations and performance obligations described in this Section 1 are referred to herein as the "Obligations".

2. **Remedies of the County and the City.**

(a) In the event of any default by the Stadium Developer under the Construction Agreement of any of its Obligations, after the expiration of any cure period applicable thereto, the Team agrees, upon the written request of either the County or the City to the Team, to pay and perform the Obligations in respect of such default, including any indemnity obligations of the Stadium Developer under the Construction Agreement arising from such default. If the Team fails (i) to pay the Obligations or (ii) fails to commence and pursue diligently the performance of any other Obligations within ten (10) Business Days after its receipt of such written notice from the County or the City demanding the payment and/or performance of such Obligations by the Team, then, either before or after pursuing any other remedy of the County or the City against the Team or the Stadium Developer, and regardless of whether the County or the City shall ever pursue any such other remedy, the County and the City shall have the right to exercise against the Team any of the remedies available to the County and the City in respect of such default under applicable law, including the rights of a secured party as provided in Section 3. If the default by the Stadium Developer involves a matter that would be subject to arbitration under Article XIV of the Construction Agreement, any proceeding against the Team hereunder with respect to that matter shall be conducted in accordance with the same arbitration procedures, but without requiring a duplication of any such arbitration proceeding (it being acknowledged that the Stadium Developer will likely be joined in any such proceeding against the Team).

(b) The payment portion of this Agreement, being a guaranty of payment and not collection, notwithstanding anything to the contrary herein contained, in any action to enforce any of the Obligations, the County or the City may proceed against the Team, with or without: (i) joining the Stadium Developer in any such action; (ii) commencing any action against or obtaining any judgment against the Stadium Developer; or (iii) commencing any proceeding to enforce the Construction Agreement or any other Stadium Agreement.

3. **Subordinate Lien on Franchise.** To secure the Team's guarantee of the Stadium Developer's funding obligation under Section 6.4 of the Construction Agreement (the "Team Funding Obligation"), the Team shall grant to the County and the City, no later than sixty (60) days after the date of this Agreement, a perfected, subordinated security interest in the Franchise (the "Subordinate Lien") on the terms set forth in this Section 3. The granting and terms of the Subordinate Lien shall be subject to each and all of the following conditions:

(a) The Subordinate Lien shall become effective upon execution and delivery of the subordination agreement referred to in Section 3(f) below.

(b) The Subordinate Lien may be foreclosed upon by the County and City, and the County and the City shall be entitled to exercise the rights granted to a secured party upon default under the UCC and other applicable laws, only in the event of a breach by the Team of the Team Funding Obligation, after the expiration of any cure period applicable thereto, and only with the prior written consent of the holders of the Senior Secured Indebtedness (as defined below). The Subordinate Lien secures only the performance of the Team Funding Obligation.

(c) The Subordinate Lien shall be fully subordinate as to payment and lien priority to any then-current or future lien given by the Team to secure payment and performance of its obligations, without limit as to amount, including guarantee obligations, in respect of any then existing or future indebtedness (including capitalized leases and other obligations classified as liabilities in accordance with generally accepted accounting principles) of the Team or any person or entity that is affiliated with the Team or has invested in the Team or in which the Team is an investor, provided that the principal purpose of the indebtedness in respect of which such lien is granted relates to the financing or operation of the Team or the development of the Baseball Stadium or Baseball Stadium Site ("Senior Secured Indebtedness"). No proceeds of the Subordinate Lien may be paid to the County or City unless and until all Senior Secured Indebtedness is paid in full. No consent of the County or City is required for the incurrence of Senior Secured Indebtedness.

(d) The County and City hereby disclaim any right that might otherwise implicitly or explicitly arise under or in respect of the Subordinate Lien to review, approve or consent to (i) the loan, security and other documentation for Senior Secured Indebtedness or any guarantee thereof and (ii) any transfer or the making of a pledge of the Franchise, the Team or an interest in either (or any financing relating thereto) that does not involve a violation of Section 13(a) of this Agreement.

(e) If then customarily required by Major League Baseball in connection with the grant of liens in Major League Baseball franchises generally, in connection with the grant of the lien as provided in clause (a) above, the County, the City and Major League Baseball will enter into a standard form Major League Baseball lien consent agreement on customary terms generally applied by Major League Baseball to third party holders of liens on Major League Baseball franchises and in which, among other things (A) Major League Baseball will confirm its approval of this Agreement and consent to the terms of the Subordinate Lien, and (B) the County and City will agree, for the benefit of Major League Baseball, to the provisions set forth in Exhibit A.

(f) The County, the City and the Team shall cooperate reasonably and in good faith in the negotiation and execution of any subordination or other documents and instruments as may be necessary to effectuate the intentions of this Section 3, provided that they do not increase the obligations of the City or County under the Stadium Agreements. The City and County each shall have the right to elect to pursue their respective legal remedies directly against the Team or execute on its security interest or both, subject to the terms of this agreement. Without limiting the generality of the foregoing (i) the County and the City agree, promptly upon written request by the Team, to enter into subordination or other agreements with the holders of Senior Secured Indebtedness, in form and substance reasonably satisfactory to the Team and

such holders, to acknowledge and effectuate the subordination and other limitations on the Subordinate Lien agreed by the County and City herein, provided that they do not increase the obligations of the City or County under the Stadium Agreements; and (ii) the Team agrees, promptly upon written request by the Board of County Commissioners (the "Board") and/or the City Commission of the City of Miami (the "Commission"), to deliver to the Board and the Commission, at the Team's sole expense, such financing statements and other documents as the Board and/or the Commission may reasonably request, in form and substance reasonably satisfactory to the Board, to further evidence and perfect the Subordinate Lien. The Team shall submit a draft of such subordination or other agreements to the County and City no later than thirty (30) days after the date of this Agreement.

(g) The Subordinate Lien shall automatically terminate and be void upon (i) a termination of the Construction Agreement in accordance with its terms; or (ii) the closing by the Team and/or its Affiliates of a financing transaction that provides funds for the Stadium Developer's funding obligation under Section 6.4 of the Construction Agreement, provided that the Stadium Developer has closed on such financing and the lender is contractually obligated to provide such funds to the Stadium Developer for the Baseball Stadium Project, provided that at the time of such closing those funds (and earnings thereon) and other funds to be provided by the Government Parties and the Stadium Developer or others on behalf of the Stadium Developer are reasonably sufficient to pay the remaining Stadium Project Costs, including Stadium Cost Overruns and Public Infrastructure Cost Overruns (to the extent the Stadium Developer is responsible for such Public Infrastructure Cost Overruns as set forth in Section 6.5 of the Construction Agreement) known or reasonably likely to be incurred as of the time of such closing, provided further if all such funds are not reasonably sufficient at the time of such closing but are deemed reasonably sufficient at a later date, the Subordinate Lien shall automatically terminate on such later date. Upon such termination, the Government Parties shall execute and deliver to the Team such documents as the Team may reasonably request, in form and substance reasonably satisfactory to the City, the County and the Team, to evidence the termination of the Subordinate Lien.

4. **Extension and Reinstatement of Guaranty.** This Agreement shall continue to be effective, or be reinstated, as the case may be, if at any time after its termination any payment and/or performance of any of the Obligations is or is sought to be rescinded or must otherwise be restored or returned by the County or the City upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Stadium Developer or the Team or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Stadium Developer or the Team, all as though such performance had not been accomplished.

5. **No Discharge.** The Team agrees that the Obligations, covenants and agreements of the Team under this Agreement shall not be affected or impaired by any act of the County, the City or any event or condition except full payment and performance of the Obligations. The Team agrees that, without full payment and performance of the Obligations, the liability of the Team hereunder shall not be discharged for any reason whatsoever. The Team intends that it shall remain liable hereunder as a principal until all Obligations shall have been fulfilled, notwithstanding any fact, act, event or occurrence which might otherwise operate as a legal or equitable discharge of a surety or guarantor. Notwithstanding the foregoing or any other

provision of this Agreement, the Team shall only be required to pay and perform the Obligations and its covenants and agreements under this Agreement to the extent the Stadium Developer is required to pay and perform such obligations under the Construction Agreement.

6. **Waiver.** The Team expressly waives: (a) presentment, demand, notice of dishonor, protest, and all other notices whatsoever under the Construction Agreement, and filing of claims with a court in the event of receivership or bankruptcy of Stadium Developer, any surety, co-obligor, indemnitor, other guarantor, pledgor or any other person liable in any respect, either directly or indirectly, under the Construction Agreement (each, an "Obligor"); (b) the right to trial by jury in any action to enforce this Agreement; and (c) any failure by the County or City to inform Team of any facts the County or City may now or hereafter know about the Stadium Developer or the transactions contemplated by the Construction Agreement, it being understood and agreed that the County or City has no duty to so inform and that Team is fully responsible for being and remaining informed by the Stadium Developer of all circumstances bearing on the existence, creation or risk of nonperformance of the Obligations, provided that this provision shall not limit any obligation or duty the County or City may have to the Stadium Developer under the Construction Agreement. No modification or waiver of any of the provisions of this Agreement will be binding upon any party except as expressly set forth in a writing duly signed and delivered on behalf of that party and, with respect to any waivers granted by the County or City, such waiver is approved by the Board of County Commissioners or the City Commission, respectively.

7. **Governing Law; Interpretation.** This Agreement has been negotiated, executed and delivered in Florida, and shall be governed by the laws of the State of Florida without reference to the conflicts of law principles of that State. The headings of sections and paragraphs in this Agreement are for convenience only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof. As used in this Agreement, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable where the context so requires. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated by a court of competent jurisdiction to be invalid, the validity of the remainder of this Agreement shall be construed as if such invalid part were never included herein. Time is of the essence of this Agreement. All payments to be made hereunder shall be made in currency and coin of the United States of America which is legal tender for public and private debts at the time of payment.

8. **Termination.** Subject to Section 4, this Agreement and the Obligations shall terminate upon the date the Obligations have been fully paid and performed.

9. **Actions by the County and City.** The County and the City are hereby authorized, without notice or demand and without affecting the liability of the Team hereunder, subject to approval by the Board of County Commissioners, in the case of the County, or the City Commission, in the case of the City,} from time to time: (a) to renew or extend the time for payment of all or any part of the Obligations (subject to the terms of the Construction Agreement); (b) to accept partial payments and/or performance on all or any part of the Obligations; (c) release any other Obligor; and (d) to settle, release, compromise, collect or

otherwise liquidate all or any part of the Obligations, and any of the foregoing may be done in any manner in accordance with the Construction Agreement, without affecting or impairing all or any part of the obligations of the Team hereunder.

10. **Additional Representations and Warranties.** In addition to and independent of any other obligation or liability under this Agreement, the Team hereby represents and warrants to the County and the City as follows:

(a) the Team has an economic interest in the Stadium Developer as a member and an interest in the success of the Baseball Stadium Project;

(b) the execution, delivery and performance by the Team of this Agreement have been duly authorized by all necessary limited partnership action, and do not and will not contravene or conflict with (i) the limited partnership agreement of the Team, (ii) any provision of Baseball Rules and Regulations, (iii) any law, order, rule, regulation, writ, injunction or decree now in effect of any government, governmental instrumentality or court having jurisdiction over the Team, or (iv) any loan agreement or other contractual restriction binding on or affecting the Team or any of its property or assets, except where any of the foregoing could not reasonably be expected to have a material adverse effect on the Team;

(c) this Agreement is a legal, valid and binding obligation of the Team enforceable against the Team in accordance with its terms;

(d) except as disclosed in writing to the County or the City, there is no action, proceeding or investigation pending or, to the knowledge of the Team, threatened or affecting the Team, which may adversely affect the ability of the Team to fulfill and perform the Obligations and its other undertakings under this Agreement. The Team is not in default with respect to any judgment, order, injunction or decree of any Governmental Authority which is in any respect material to the transactions contemplated in and by this Agreement;

(e) the Team is a limited partnership duly formed, validly existing, and in good standing under the laws of the State of Delaware;

(f) the Team is a member in good standing of Major League Baseball and is in compliance in all material respects with all applicable Baseball Rules and Regulations which are relevant to the transactions contemplated herein;

(g) the Team has full power and legal right to execute and deliver this Agreement and to perform and observe the provisions of this Agreement; and

(h) the Team is in compliance with MLB's Debt Service Rule, pursuant to which generally an MLB club's total outstanding debt may not exceed ten times its average earnings before interest, taxes, depreciation and amortization (EBITDA) in the preceding three years.

11. **Covenant Regarding Compliance with Debt Service Rule.** The Team covenants that, until Substantial Completion or the termination of the Construction Agreement, it

shall remain in compliance with MLB's Debt Service Rule and, upon the reasonable request of the County, shall provide the County with a certificate from an officer of the Team confirming such compliance.

12. **Indemnity.** In addition to its guarantee of the Stadium Developer's indemnification obligations under the Construction Agreement, the Team shall indemnify and hold harmless each Government Party and its officers, employees, attorneys, agents and instrumentalities (collectively, "Government Indemnitees") from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the Government Indemnitees may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of or resulting from the breach of Sections 1, 3, 10 or 11 of this Agreement by the Team. Any such indemnification shall be provided in accordance with the indemnification procedures set forth in Section 13.3 of the Operating Agreement.

13. **Successors and Assigns; Third Party Beneficiaries.**

(a) This Agreement shall bind the Team and its assigns and successors; provided that the Team shall not be entitled to transfer or assign its obligations hereunder without the prior written consent of the Government Parties, which consent shall be in their sole discretion and may be conditioned upon the Team's remaining liable under this Agreement if the Government Parties are not reasonably satisfied with the creditworthiness of the transferee; provided, further, however, that the Team may, without the prior written consent of the Government Parties, transfer and assign its obligations hereunder to any Person (or Affiliate of any Person) that acquires the Team's Major League Baseball franchise with the required approval of Major League Baseball, provided that (i) such transferee or its Affiliate assumes unconditionally, in a writing reasonably satisfactory to the Government Parties, all of the obligations of the Team under this Agreement, and (ii) such transferee or its Affiliates assume all of the other obligations of the Team and its Affiliates under the other Stadium Agreements. The Team shall provide the City and County written evidence of Major League Baseball's approval of the transferee.

(b) This Agreement shall bind the Government Parties and their respective assigns and successors; provided the neither Government Party may transfer or assign this Agreement or any of their respective rights and obligations hereunder without the prior written consent of the Team, which consent shall be in the Team's sole discretion.

(c) Nothing in this Agreement, express or implied, is intended to (i) confer upon any Person other than the parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise; or (ii) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.

14. **Notices.** Any notice, consent or other communication under this Agreement shall be in writing and shall be considered given when delivered in person or sent by facsimile or electronic mail (provided that any notice sent by facsimile or electronic mail shall simultaneously be sent personal delivery, overnight courier or certified mail as provided herein),

one (1) Business Day after being sent by reputable overnight carrier, or three (3) Business Days after being mailed by certified mail, return receipt requested, to the parties at the addresses set forth below (or at such other address as a party may specify by notice given pursuant to this Section to the other parties):

To the County: County Manager
111 NW 1st Street, Suite 2900
Miami, Florida 33128
Attention: George M. Burgess

with a copy to: County Attorney
111 NW 1st Street, Suite 2810
Miami, Florida 33128
Attention: Robert A. Cuevas, Jr. and Geri Keenan

To the City: City Manager
444 SW 2nd Avenue, 10th Floor
Miami, Florida 33130
Attention: Pedro G. Hernandez

with a copy to: City Attorney
444 SW 2nd Avenue, 10th Floor
Miami, Florida 33130
Attention: Julie O. Bru and Olga Ramirez-Seijas

To the Team: 2267 Dan Marino Boulevard
Miami, Florida 33056
Attention: David Samson and Derek Jackson

with a copy to: Proskauer Rose LLP
1585 Broadway
New York, New York 10036
Attention: Wayne D. Katz, Esq.

15. **Agent for Service of Process.** The Team hereby submits to personal jurisdiction in the State of Florida for the enforcement of this Agreement and waives any and all personal rights to object to such jurisdiction for the purposes of litigation to enforce this Agreement. In the event such litigation is commenced at any time when the Team is not permanently domiciled in the State of Florida, the Team agrees that service of process may be made and personal jurisdiction over the Team obtained, by service of a copy of the summons, complaint and other pleadings required to commence such litigation upon the appointed agent for service of process in the State of Florida, which agent the Team hereby designates to be:

CT Corporation System
1200 South Pine Island Road
Plantation, Florida 33324

The Team agrees that this appointment of an agent for service of process is made for the mutual benefit of the Team and the County and may not be revoked without the County's consent. The Team hereby agrees and consents that any such service of process upon such agent shall be taken and held to be valid personal service upon the Team if the Team shall not be then physically present, residing within, or doing business within the State of Florida, and that any such service of process shall be of the same force and validity as if service were made upon the Team when physically present, residing within, or doing business in the State of Florida. The Team waives all claim of error by reason of any such service properly given. The Team hereby agrees that an action, suit or proceeding to enforce this Agreement may be brought only in the Eleventh Judicial Circuit Court of Florida for Miami-Dade County or the United States District Court for the Southern District of Florida, and hereby waives any objection which the Team may have to the laying of the venue of any such action, suit or proceeding in any such Court.

16. **Nonrecourse Liability of Team Personnel.** Notwithstanding and prevailing over any contrary provision or implication in this Agreement and except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), the officers, directors, partners, shareholders, members, employees and agents of the Team and their Affiliates (the "Team Personnel") shall not in any way be liable under or with respect to this Agreement; no deficiency or other monetary or personal judgment of any kind shall be sought or entered against any of the Team Personnel with respect to liability under or with respect to this Agreement; no judgment with respect to liability under or with respect to this Agreement shall give rise to any right of execution or levy against the assets of any of the Team Personnel; and the liability of the Team under this Agreement shall be limited to the assets of the Team.

17. **Nonrecourse Liability of County Personnel.** Notwithstanding and prevailing over any contrary provision or implication in this Agreement, no member, elected or appointed official, officer, employee, agent, independent contractor or consultant of the County shall be liable to the Team, or any successor in interest to the Team, in the event of any default or breach by the County for any amount which may become due to the Team or any successor in interest to the Team under this Agreement, or on any other obligation under the terms of this Agreement, except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts).

18. **Nonrecourse Liability of City Personnel.** Notwithstanding and prevailing over any contrary provision or implication in this Agreement, no member, elected or appointed official, officer, employee, agent, independent contractor or consultant of the City shall be liable to the Team, or any successor in interest to the Team, in the event of any default or breach by the City for any amount which may become due to the Team or any successor in interest to the Team under this Agreement, or on any other obligation under the terms of this Agreement, except for their criminal acts with respect to this Guaranty (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts).

19. **Merger Clause.** This Agreement, including any schedules and exhibits to this Agreement, and the other Stadium Agreements contain the sole and entire agreement among the

Parties and their Affiliates with respect to their subject matter, are fully integrated, and supersede all prior written or oral agreements among them relating to that subject matter, including the BSA. Except as specifically set forth in this Agreement and the other Stadium Agreements, there shall be no warranties, representations or other agreements among the Parties or their Affiliates in connection with the subject matter hereof or thereof.

20. **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under Applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under Applicable Law, the Parties shall, to the extent possible, negotiate a revised provision which (a) complies with Applicable Law, (b) does not alter any of the substantive rights, obligations or liabilities of any party under this Agreement or any other Stadium Agreement, and (c) confers upon the Parties the benefits intended to be conferred by the invalid provision; and the remaining provisions of this Agreement, if capable of substantial performance, shall be enforced as if this Agreement was entered into without the invalid provision.

21. **Counterparts.** If this Agreement is executed in several counterparts, each of those counterparts shall be deemed an original, and all of them together shall constitute one and the same instrument.

22. **County Inspector General and Commission Auditor.** The attention of the Operator is hereby directed to Section 2-1076 of the County Code establishing the Miami-Dade County Office of the Inspector General (the "OIG"), which has the authority and power to investigate County affairs and review past, present and proposed County programs, accounts, records, contracts and transactions. The OIG contract fee shall not apply to this Agreement or any other Stadium Agreement, and the Team Affiliates shall not be responsible for any expense reimbursements or other amounts payable to the OIG or its contractors. The attention of the Operator is hereby directed to Section 2-481 of the County Code related to the Commission Auditor.

23. **Sovereign Rights.** The County and City retain all of their respective sovereign prerogatives and rights as a county or city under State law with respect to the planning, design, construction, development and operation of the Baseball Stadium. It is expressly understood that notwithstanding any provisions of this Agreement and the Stadium Agreements and the County's and the City's status thereunder:

(a) The County and the City retain all of their sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county or city under State law and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations whatever nature applicable to the planning, design, construction and development of the Baseball Stadium, the Baseball Stadium Site, the Public Infrastructure, the Other Development or the Parking Facilities, or the operation thereof, or be liable for the same; and

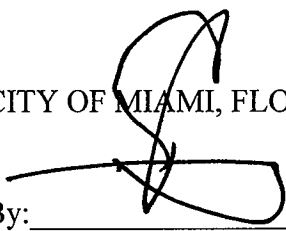
(b) The County and the City shall not by virtue of this Agreement or the other Stadium Agreements be obligated to grant the other, or the Team, any Team Affiliate, or the Stadium Developer any approvals of applications for building, zoning, planning or development

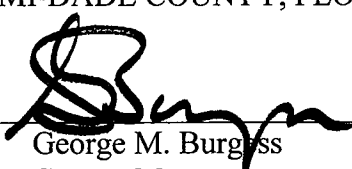
under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Baseball Stadium, the Baseball Stadium Site, the Public Infrastructure, the Other Development or the Parking Facilities.

Notwithstanding and prevailing over any contrary provision in this Agreement, any County or City covenant or obligation that may be contained in this Agreement shall not bind the Board, the County's Planning and Zoning Department, DERM, the Commission or any other County, City, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or City or other applicable governmental agencies in the exercise of its police power.


24. **Force Majeure.** If any Party shall be delayed in the performance of any obligation hereunder as a result of a Force Majeure, then the performance of such obligation shall be extended by the length of such delay. In response to and during any delay caused by a Force Majeure, the Parties shall at all times act diligently and in good faith to bring about the termination or removal of the Force Majeure as promptly as reasonably possible and any party seeking an excuse of performance due to such Force Majeure shall work diligently and in good faith to reduce or eliminate any damage, cost or delay caused by such Force Majeure. Without limiting the foregoing, if a Party fails to meet a deadline specified in this Agreement due to another Party's failure to meet a prior and related deadline (or due to an event covered by Section 3.6(f) of the Construction Agreement), such subsequent deadline shall be extended by the number of days the delay was attributable to the prior deadline failure, and the Party failing to meet the prior deadline shall not be relieved of liability for such breach.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement as of the date and year first above written.

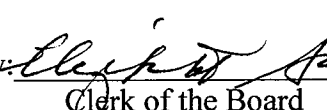
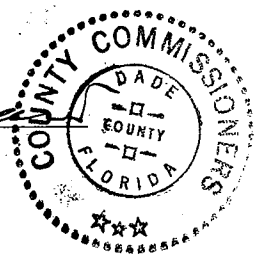
CITY OF MIAMI, FLORIDA

By: _____
Pedro G. Hernandez
City Manager
City of Miami

MIAMI-DADE COUNTY, FLORIDA

By: _____
George M. Burgess
County Manager
Miami-Dade County

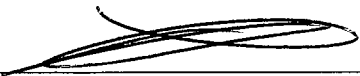
ATTEST:

By: 
City Clerk 4-10-09

ATTEST:

By: 
Clerk of the Board


APPROVED AS TO FORM AND
CORRECTNESS:



City Attorney
JULIE O. BRU *JA+*

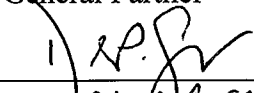
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

JRA for GBK

County Attorney

FLORIDA MARLINS, L.P.

By: Double Play Company,
its General Partner

By: 

Name: *DAVID P. SAMSON*
Title: *PRESIDENT*

Exhibit A

Provisions arising under Section 3(e)

With respect to the exercise of the Government Parties' rights under the Subordinate Lien and for the benefit of MLB (and, for the avoidance of doubt, not for the benefit of any third party), the Government Parties acknowledge and agree that: (A) the Government Parties are aware of the provisions contained in Article V, Section 2(b)(2) of the Major League Constitution among the Major League Clubs (such document, as may be amended from time to time, the "MLB Constitution"), and recognize that the Commissioner of MLB has issued "Control Interest Transfers – Guidelines & Procedures", dated November 9, 2005 (such document and any successor guidelines, as may be amended from time to time, the "Guidelines"); (B) Article V, Section 2(b)(2) of the MLB Constitution and the Guidelines require that the transfer of a Control Interest in either the Franchise or the Team be subject to the approving vote of the Major League Clubs in their absolute discretion; (C) the Commissioner of MLB holds the "best interests of Baseball" powers under the MLB Constitution; (D) such approvals of the Major League Clubs would be required for any sale or transfer of the Franchise, the Team, or a Control Interest in either the Franchise or the Team, or any sale, transfer, assignment, license, sublease, or any other conveyance of other elements of collateral covered by the Subordinate Lien arising directly from the Team's interest in the Franchise, any MLB Entity or the MLB Rules and Regulations, to a third party as well as to either Government Party, and that each such transaction shall be subject to and made in accordance with the MLB Constitution and the Guidelines; (E) any temporary or permanent management of the Franchise or the Team pursuant to the exercise of foreclosure rights under the Subordinate Lien shall be subject to the prior approval of the Commissioner and the Major League Clubs; (F) in the event that, pursuant to a foreclosure under the Subordinate Lien, a Government Party desires to operate the Franchise or the Team for its own account on a temporary or permanent basis, such Government Party shall seek the prior approval of the Commissioner and the Major League Clubs, in accordance with the MLB Constitution and the Guidelines. Solely as between the Government Parties and Major League Baseball (and, for the avoidance of doubt, not for the benefit of the Team or any other third party), the Government Parties acknowledge that the rights and powers granted to the Government Parties under the Subordinate Lien shall in all respects be subordinate to MLB Rules and Regulations.